

# NEBRASKA HEALTH AND HUMAN SERVICES SYSTEM



Excerpt from [Nebraska State Statutes](#)

71-6008

Definitions, where found.

As used in the Nebraska Nursing Home Act, unless the context otherwise requires, the definitions found in sections 71-6010 to 71-6017.01 shall apply.

Source:

Laws 1983, LB 235, § 1; Laws 1986, LB 782, § 4; Laws 1998, LB 1354, § 38.

71-6009

Repealed. Laws 1998, LB 1354, s. 48.

71-6010

Department, defined.

Department shall mean the Department of Health and Human Services Regulation and Licensure.

Source:

Laws 1983, LB 235, § 3; Laws 1996, LB 1044, § 745. Operative date January 1, 1997.

71-6011

Director, defined.

Director shall mean the Director of Regulation and Licensure.

Source:

Laws 1983, LB 235, § 4; Laws 1996, LB 1044, § 746. Operative date January 1, 1997.

71-6012

Nursing home, defined.

Nursing home shall mean a nursing facility or a skilled nursing facility as defined in section 71-424 or 71-429.

Source:

Laws 1983, LB 235, § 5; Laws 2000, LB 819, § 122.

71-6013

Resident, defined.

Resident shall mean any person domiciled, residing, or receiving care and treatment, for a period in excess of twenty-four hours, in a nursing home.

Source:  
Laws 1983, LB 235, § 6.

71-6014  
Nurse's aide, defined.

Nurse's aide shall mean any person, other than a licensed registered or practical nurse, employed by a nursing home for the purpose of aiding a registered or licensed practical nurse through the performance of nonspecialized tasks related to the personal care and comfort of residents.

Source:  
Laws 1983, LB 235, § 7.

71-6015  
Orderly, defined.

Orderly shall mean an employee of the nursing home, other than a registered nurse, licensed practical nurse, medication aide, or nurse's aide, who performs routine or heavy work, but shall not include persons hired by a nursing home for the primary purpose of (1) preparing or aiding in the preparation of meals for residents or (2) maintaining the physical facilities of the nursing home.

Source:  
Laws 1983, LB 235, § 8; Laws 1998, LB 1354, § 39.

71-6016  
License, defined.

License shall mean a license to operate a nursing home issued under the Health Care Facility Licensure Act.

Source:  
Laws 1983, LB 235, § 9; Laws 2000, LB 819, § 123.

71-6017  
Licensee, defined.

Licensee shall mean the holder of a license.

Source:  
Laws 1983, LB 235, § 10.

71-6017.01  
Medicaid, defined.

Medicaid shall mean the medical assistance program under sections 68-1018 to 68-1025.

Source:  
Laws 1986, LB 782, § 1.

71-6018  
Repealed. Laws 2000, LB 819, s. 162.

71-6018.01

Nursing facility; nursing requirements; waiver; procedure.

- (1) Unless a waiver is granted pursuant to subsection (2) of this section, a nursing facility shall use the services of (a) a licensed registered nurse for at least eight consecutive hours per day, seven days per week and (b) a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days per week. Except when waived under subsection (2) of this section, a nursing facility shall designate a licensed registered nurse or licensed practical nurse to serve as a charge nurse on each tour of duty. The Director of Nursing Services shall be a licensed registered nurse, and this requirement shall not be waived. The Director of Nursing Services may serve as a charge nurse only when the nursing facility has an average daily occupancy of sixty or fewer residents.
- (2) The department may waive either the requirement that a nursing facility or long-term care hospital certified under Title XIX of the federal Social Security Act, as amended, use the services of a licensed registered nurse for at least eight consecutive hours per day, seven days per week, or the requirement that a nursing facility or long-term care hospital certified under Title XIX of the federal Social Security Act, as amended, use the services of a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days per week, including the requirement for a charge nurse on each tour of duty, if:
  - (a) (a)
    - (i) The facility or hospital demonstrates to the satisfaction of the department that it has been unable, despite diligent efforts, including offering wages at the community prevailing rate for the facilities or hospitals, to recruit appropriate personnel;
    - (ii) The department determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility or hospital; and
    - (iii) The department finds that, for any periods in which licensed nursing services are not available, a licensed registered nurse or physician is obligated to respond immediately to telephone calls from the facility or hospital; or
  - (b) The Department of Health and Human Services Finance and Support has been granted any waiver by the federal government of staffing standards for certification under Title XIX of the federal Social Security Act, as amended, and the requirements of subdivisions (a)(ii) and (iii) of this subsection have been met.
- (3) The Department of Health and Human Services Finance and Support shall apply for such a waiver from the federal government to carry out subdivision (1)(b) of this section.
- (4) A waiver granted under this section shall be subject to annual review by the department. As a condition of granting or renewing a waiver, a facility or hospital may be required to employ other qualified licensed personnel. The department may grant a waiver under this section if it determines that the waiver will not cause the State of Nebraska to fail to comply with any of the applicable requirements of medicaid so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled.
- (5) The department shall provide notice of the granting of a waiver to the office of the state long-term care ombudsman and to the Nebraska Advocacy Services or any successor designated for the protection of and advocacy for persons with mental illness or mental retardation. A nursing facility granted a waiver shall provide written notification to each resident of the facility or, if appropriate, to the guardian, legal representative, or immediate family of the resident.

Source:

Laws 2000, LB 819, § 126.

71-6018.02

Skilled nursing facility; nursing requirements; waiver; procedure.

- (1) Unless a waiver is granted pursuant to subsection (2) of this section, a skilled nursing facility shall use the services of (a) a licensed registered nurse for at least eight consecutive hours per day, seven days per week and (b) a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days per

week. Except when waived under subsection (2) of this section, a skilled nursing facility shall designate a licensed registered nurse or licensed practical nurse to serve as a charge nurse on each tour of duty. The Director of Nursing Services shall be a licensed registered nurse, and this requirement shall not be waived. The Director of Nursing Services may serve as a charge nurse only when the skilled nursing facility has an average daily occupancy of sixty or fewer residents.

- (2) The department may waive the evening and night staffing requirements for skilled nursing facilities or for long-term care hospitals certified under Title XVIII of the federal Social Security Act, as amended, except the requirement that the Director of Nursing Services be a licensed registered nurse, if:
  - (a) The facility or hospital demonstrates to the satisfaction of the department that it has been unable, despite diligent efforts, to hire enough licensed registered nurses and licensed practical nurses to fulfill such requirements. For purposes of this subdivision, diligent efforts include, but are not limited to, offering wages equal to or greater than the community prevailing wage rate being paid such nurses at nursing facilities;
  - (b) The department determines that a waiver of the requirement will not endanger the health or safety of residents of the facility or hospital; and
  - (c) The department finds that, for any period in which staffing requirements cannot be met, a licensed registered nurse or a physician is obligated to respond immediately to telephone calls from the facility or hospital. A waiver granted under this subsection shall be subject to annual review by the department. As a condition of granting or renewing a waiver, a facility or hospital may be required to employ other qualified licensed personnel.
- (3) The department may waive the requirement that a skilled nursing facility or long-term care hospital certified under Title XVIII of the federal Social Security Act, as amended, provide a licensed registered nurse on duty at the facility or hospital for more than forty hours per week if:
  - (a) The facility or hospital is located in a nonurban area where the supply of skilled nursing facility services is not sufficient to meet the needs of individuals residing in the area;
  - (b) The facility or hospital has one full-time licensed registered nurse who is regularly on duty at the facility or hospital forty hours per week; and
  - (c) The facility or hospital (i) has only patients whose physicians have indicated through orders or admission or progress notes that the patients do not require the services of a licensed registered nurse or a physician for more than forty hours per week or (ii) has made arrangements for a licensed registered nurse or a physician to spend time at the facility or hospital, as determined necessary by the physician, to provide the necessary services on days when the regular, full-time licensed registered nurse is not on duty. A waiver may be granted under this subsection for a period of up to one year by the department.

Source:

Laws 2000, LB 819, § 127.

71-6019

Access to residents; when permitted.

Any employee, representative, or agent of the Department of Health and Human Services, the office of the state long-term care ombudsman, a law enforcement agency, or the local county attorney shall be permitted access at any hour to any resident of any nursing home. Friends and relatives of a resident shall have access during normal visiting and business hours of the facility. Representatives of community legal services programs, volunteers, and members of community organizations shall have access, after making arrangements with proper personnel of the home, during regular visiting and business hours if the purpose of such access is to:

- (1) Visit, talk with, and make personal, social, and legal services available to all residents;
- (2) Inform residents of their rights and entitlements and their corresponding obligations under federal and state laws by means of educational materials and discussions in groups and with individual residents;

- (3) Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance, and social security benefits, as well as in all other matters in which residents are aggrieved. Assistance may include counseling and litigation; or
- (4) Engage in other methods of asserting, advising, and representing residents so as to extend to them full enjoyment of their rights.

Source:

Laws 1983, LB 235, § 12; Laws 1992, LB 677, § 32; Laws 1996, LB 1044, § 747. Operative date January 1, 1997.

71-6020

Visitor; visitation procedures.

Any person entering a nursing home pursuant to section 71-6019 shall first notify appropriate nursing home personnel of his or her presence. He or she shall, upon request, produce identification to establish his or her identity. No such person shall enter the immediate living area of any resident without first identifying himself or herself and then receiving permission from the resident to enter. The rights of other residents present in the room shall be respected.

Source:

Laws 1983, LB 235, § 13.

71-6021

Administrator refuse access; hearing; procedure; access authorized.

- (1) Notwithstanding the provisions of sections 71-6019 and 71-6020, the administrator of a nursing home may refuse access to the nursing home to any person if the presence of such person in the nursing home would be injurious to the health and safety of a resident or would threaten the security of the property of a resident or the nursing home or if the person seeks access to the nursing home for commercial purposes. Any person refused access to a nursing home may, within thirty days of such refusal, request a hearing by the department. The wrongful refusal of a nursing home to grant access to any person as required in sections 71-6019 and 71-6020 shall constitute a violation of the Nebraska Nursing Home Act. A nursing home may appeal any citation issued pursuant to this section in the manner provided in sections 71-452 to 71-455.
- (2) Nothing in sections 71-6019 to 71-6021 shall be construed to prevent (a) an employee of the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, or the Department of Health and Human Services Finance and Support, acting in his or her official capacity, from entering a nursing home for any inspection authorized by the act or any rule or regulation adopted and promulgated pursuant thereto or (b) a state long-term care ombudsman or an ombudsman advocate, acting in his or her official capacity, from entering a nursing home to conduct an investigation authorized by any rules and regulations promulgated by the Department of Health and Human Services.

Source:

Laws 1983, LB 235, § 14; Laws 1992, LB 677, § 33; Laws 1996, LB 1044, § 748; Laws 2000, LB 819, § 124.

71-6022

Transfer or discharge of resident; conditions; procedure; involuntary transfer or discharge; notice requirements.

- (1) A nursing home shall not transfer or discharge a resident except (a) upon his or her consent, (b) for medical reasons, (c) for the resident's safety or the safety of other residents or nursing home employees, (d) when rehabilitation is such that movement to a less restrictive setting is possible, or (e) for nonpayment for the

resident's stay, except as prohibited by section 71-6023.01 or by Title XVIII or XIX of the Social Security Act as amended.

- (2) Involuntary transfer from a nursing home or discharge of a resident shall be preceded by a minimum written notice of thirty days, except when subdivision (d) of subsection (1) of this section applies, five days written notice shall be given to the resident or his or her representative and when subdivision (e) of subsection (1) of this section applies, a resident shall be given ten days' written notice if his or her charges are five days or more in arrears. This subsection shall not apply when (a) an emergency transfer or discharge is mandated by the resident's health care needs and is in accord with the written orders and medical justification of the attending physician or (b) the transfer is mandated by the physical safety of other residents or nursing home employees, as documented in the nursing home records.

Source:

Laws 1983, LB 235, § 15; Laws 1986, LB 782, § 5.

#### 71-6023

Involuntary transfer or discharge; notice; contents.

- (1) The notice required by subsection (2) of section 71-6022 shall contain:
- (a) The stated reason for the proposed transfer or discharge;
  - (b) The effective date of the proposed transfer or discharge; and
  - (c) In not less than twelve-point type, the text of section 71-445.
- (2) A copy of the notice required by subsection (2) of section 71-6022 shall be transmitted to the resident and the resident's representative, if a representative has been designated.

Source:

Laws 1983, LB 235, § 16; Laws 2000, LB 819, § 125.

#### 71-6023.01

Licensure; retention of medicaid resident required; when.

A nursing home seeking or renewing a license shall be required to retain a resident whose economic status changes so that such resident receives medicaid or becomes eligible for medicaid if such resident has resided in the nursing home for a period of at least one year after July 17, 1986, unless ten percent of such nursing home's residents are receiving medicaid or are eligible for medicaid. Such requirement shall constitute a condition of licensure. The department shall notify the nursing home of such requirement ninety days prior to the renewal of a license or upon application for a license. For purposes of this section, nursing homes shall include long-term care hospitals, including long-term care units of a hospital. This section shall not apply to the Nebraska veterans homes established pursuant to Chapter 80, article 3.

Source:

Laws 1986, LB 782, § 2; Laws 1990, LB 1064, § 30.

#### 71-6024

Repealed. Laws 2000, LB 819, s. 162.

#### 71-6025

Repealed. Laws 2000, LB 819, s. 162.

#### 71-6026

Repealed. Laws 2000, LB 819, s. 162.

71-6027

Repealed. Laws 2000, LB 819, s. 162.

71-6028

Repealed. Laws 2000, LB 819, s. 162.

71-6029

Repealed. Laws 2000, LB 819, s. 162.

71-6030

Repealed. Laws 2000, LB 819, s. 162.

71-6031

Repealed. Laws 2000, LB 819, s. 162.

71-6032

Repealed. Laws 2000, LB 819, s. 162.

71-6033

Repealed. Laws 2000, LB 819, s. 162.

71-6034

Repealed. Laws 2000, LB 819, s. 162.

71-6035

Repealed. Laws 2000, LB 819, s. 162.

71-6036

Repealed. Laws 2000, LB 819, s. 162.

71-6037

Act, how cited.

Sections 71-6008 to 71-6037 shall be known and may be cited as the Nebraska Nursing Home Act.

Source:

Laws 1983, LB 235, § 30; Laws 1986, LB 782, § 6;

Laws 2000, LB 819, § 128.